

Turkish Constitutional Court Rules on Freedom of Press and Expression for Online News

15 Mar 2018

The Turkish Constitutional Court recently ruled that blocking access to certain articles and columns on an online aviation news site infringed the website owner's constitutional rights regarding freedom of expression and press. It noted that in a democratic and constitutional state, prohibitions and restrictions cannot be at a level which would inevitably violate the use of freedom of speech.

The applicant in the case at hand was the owner and general editor of an aviation news website, who simultaneously also wrote columns on the website. The applicant published news and columns about the head of the Turkish Aeronautical Association in April 2014. The content in question accused this individual of being a "thief". The court stated that everyone is presumed innocent unless proven otherwise, so an article which does not contain a court order about this accusation cannot be deemed news, but rather simply defamation which cannot be protected by law. Accordingly, the Ankara 5th Criminal Court blocked access to these webpages via a decision on 14 April 2014. The Criminal Court stated the content exceeded the limits of legitimate notification and reached the level of insult. Therefore, the content was blocked according to Article 9 of the Law Regulating Internet Broadcasting and Fighting Crimes Committed through Internet Broadcasting number 5651 ("**Law**").

The website owner applied to the Constitutional Court. The court considered the claim on the basis of Articles 26 and 28 of the Constitution, which respectively relate to freedom of speech and freedom of press and also stated that Article 9 of the Law is a protection mechanism and the decision to block access is an exceptional judicial measure intended for serious crimes, such as child pornography, child sexual abuse and racism in democratic countries.

On this basis, the Constitutional Court ruled that in a democratic and constitutional state, prohibitions and restrictions cannot be at a level which would inevitably violate the use of freedom of speech. Therefore, the Constitutional Court ruled that the website owner's freedom of expression and press has been infringed.

Please see this link for the full text of the Constitutional Court decision dated 26 October 2017 and numbered 2014/5552 published in the Official Gazette number 30270 on 14 December 2017 (only available in Turkish).

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